

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re	)	
	)	Chapter 11
W.R. GRACE & CO., et al.,	)	
	)	No. 01-1139 (JKF)
Debtors	)	(Jointly Administered)
	)	

**LIMITED OBJECTION BY  
TYCO HEALTHCARE GROUP LP TO PROPOSED  
SETTLEMENT BETWEEN DEBTORS AND  
THE UNITED STATES REGARDING SUPERFUND SITES**

Tyco Healthcare Group LP (“Tyco Healthcare”), by and through its attorneys, hereby makes this limited objection to the *Motion of Debtors for Entry of an Order Authorizing Settlement Agreement Resolving the United States’ Proofs of Claim Regarding Certain Environmental Matters* (the “Motion”)(D.I. 17670), and in support of its limited objection, states as follows:

1. Tyco Healthcare is the holder of Claim No. 12789 against the Debtors relating to the Superfund site known as Blackburn & Union Privileges, located on South Street in Walpole, Massachusetts (the “Blackburn & Union” Site).

2. Tyco Healthcare has no objection to the proposed settlement agreement between the Debtors and the United States regarding the Superfund sites (the “Settlement Agreement”) other than Tyco Healthcare’s uncertainty about the effect the Settlement Agreement and its implementation may have on Tyco Healthcare’s claims, rights, and defenses against the Debtors or the United States regarding the Blackburn & Union Site, particularly in light of Paragraph 15.D of the Settlement Agreement, which provides for the possible future exclusion of the Blackburn & Union Site from treatment as one of the “Additional Sites,” which treatment the

Settlement Agreement currently (but revocably) affords to such site, and (b) Paragraph 28 of the Settlement Agreement regarding “discharge under Section 1141 of the Bankruptcy Code as to any third parties or claims that are not addressed by this Settlement Agreement.”

3. Tyco Healthcare requests that language be added to the Settlement Agreement or included in any Order entered approving it, to negate any implication, which it believes was unintended, that, if the Blackburn & Union Site were to be excluded from the Settlement Agreement, then, pursuant to Paragraph 28, Tyco Healthcare would be a third party, and its Claim no. 12789 would be a Claim, “not addressed by this Settlement Agreement,” and therefore at risk of discharge *sub silentio* without a determination of Tyco Healthcare’s Claim no. 12789 in accordance with the Bankruptcy Code and Rules.

4. This implication could be negated and the unnecessary ambiguity could be clarified if Paragraph 28 were amended to read as follows:

“This Settlement Agreement in no way impairs the scope and effect of the Debtors’ discharge under Section 1141 of the Bankruptcy Code as to any third parties or as to any Claims that are not addressed by this Settlement Agreement, and for the purposes of the foregoing, Tyco Healthcare Group LP and its Claim no. 12789 shall be deemed to be addressed by this Settlement Agreement, whether or not the Blackburn and Union Privileges Site is treated as an Additional Site.”

5. Alternatively, any Order that may be entered approving the Settlement Agreement could include the following provision:

“Notwithstanding anything to the contrary in the Settlement Agreement or in this Order, Tyco Healthcare Group LP and its Claim no. 12789, shall be deemed to be, respectively, a third party, and a Claim, ‘addressed by this Settlement Agreement,’ as this foregoing clause is used in Paragraph 28 of the Settlement Agreement.”

**CONCLUSION**

The Settlement Agreement should not be approved without either amendment of Paragraph 28, or the inclusion of language in any approving Order, in accordance with this Limited Objection.

Date: January 11, 2008  
Wilmington, Delaware

SULLIVAN · HAZELTINE · ALLINSON LLC



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